

EXCEPTION



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OPEN MEETING AGENDA ITEM
BEFORE THE ARIZONA CORPORATION

Arizona Corporation Commission

DOCKETED

SEP 4 2014

DOCKETED BY

2014 SEP -4 P 2:00

COMMISSION
DOCKET CONTROL

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BOB STUMP - CHAIRMAN

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BRENDA BURNS

BOB BURNS

SUSAN BITTER SMITH

APPLICATION OF SPECTROTEL, INC. FOR AN
ORDER RESCINDING ITS BOND
REQUIREMENT.

DOCKET NO. T-20821A-14-0161

EXCEPTIONS

ORIGINAL

Spectrotel, Inc. ("Spectrotel"), through undersigned counsel, submits exceptions to the Proposed Order prepared by Staff in this docket ("Proposed Order"). Given the Commission's recent policy that performance bonds are no longer necessary, Spectrotel filed an application to rescind its bond requirement. However, Spectrotel faced the dilemma of having a bond that would expire during Staff's consideration of the application. To address this dilemma, Spectrotel also requested that the bond requirement be suspended during the processing of the application – similar to the filing of a request to extend a compliance date. Spectrotel now understands that Staff does not believe this is the appropriate approach. Spectrotel submits that its approach was in good faith and a matter of first impression. Therefore, Spectrotel requests that the Commission grant the application in this docket. Spectrotel has provided proposed amendment language in Attachment 1.

In further support of these exceptions, Spectrotel states:

The Commission has recently announced a clear policy directive that a performance bond is no longer necessary for competitive telecommunications companies except upon extraordinary circumstance. Many telecommunications companies have filed applications to rescind their bond requirements. Commission Staff has diligently and timely processed these applications.

Spectrotel filed an application to rescind its bond requirement on May 21, 2014. However, its existing bond was set to expire (and would require renewal) during the processing of

1 the application. This created the dilemma of incurring the cost of a bond that would soon no
2 longer be necessary. To address this dilemma, Spectrotel requested a suspension of the
3 requirement pending the processing of its application. Spectrotel viewed this as analogous to
4 seeking an extension of a compliance date. This circumstance had not been expressly addressed
5 by the Commission at the time the application was filed. Spectrotel did not know the suspension
6 approach was unacceptable until the Staff Report and Proposed Order were docketed. However,
7 Spectrotel now understands the proper approach for the dilemma it faced.

8 Moreover, as implicit in the Staff Report, Spectrotel was and is in full compliance with the
9 Commission's requirements except for the bond requirement at issue (and for which it sought a
10 temporary suspension). Therefore, Spectrotel had a reasonable anticipation that the bond
11 rescission application would be granted. Spectrotel certainly is sensitive to all Commission
12 compliance requirements and now understands that the approach to request suspension of the
13 requirement is not acceptable.

14 Spectrotel would also note that the Commission has granted an application to rescind a
15 bond requirement, even though the applicant had allowed its bond to expire before filing its
16 application and did not request a suspension of the bond requirement during processing of the
17 application. See Decision No. 74410 (March 19, 2014) ("Broadvox-CLEC"). Spectrotel's
18 approach here was an attempt to address the soon-to-be-expiring bond dilemma without incurring
19 a cost that would soon be unnecessary.

20 Finally, Spectrotel appreciates Staff's alternative proposal, which would grant the
21 application. The proposed amendment language is intended to track Staff's alternative proposal.
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1 WHEREFORE, Spectrotel, Inc. respectfully requests that the Commission amend the
2 Proposed Order and rescind the \$135,000 performance bond requirement.

3 RESPECTFULLY SUBMITTED this 4th day of September, 2014.

4 **ROSHKA DEWULF & PATTEN, PLC**

5
6 By 
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Attorneys for Spectrotel, Inc.

12 **ORIGINAL and 13 COPIES**
13 filed this 4th day of
14 September 2014 with:

15 Docket Control
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

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20 Chief Administrative Law Judge
21 Hearing Division
22 Arizona Corporation Commission
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By Jaclyn Howard

Attachment 1
Proposed Amendment Language

At page 4, line 7, DELETE "not".

At page 4, line 12, REPLACE "denied" with "granted".

DELETE page 4, line 13 through page 5, line 4.

At page 5, line 5, INSERT:

"IT IS FURTHER ORDERED that the Spectrotel bond be returned to the following name and address as provided by the applicant:

John Dempsey, Finance Manager
Spectrotel, Inc.
3535 State Highway 66, Ste 7, Bldg 7
Neptune, NJ, 07753

IT IS FURTHER ORDERED that Spectrotel, Inc. is hereby put on notice that any future events of non-compliance of the Commission requirements may result in the Commission initiating action against Spectrotel, Inc."